

REFERENCE TITLE: schools; financial mismanagement provisions

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2555

Introduced by
Representative Anderson

AN ACT

AMENDING SECTION 15-103, ARIZONA REVISED STATUTES; RELATING TO SCHOOL DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-103, Arizona Revised Statutes, is amended to
3 read:

4 15-103. School districts: financial mismanagement:
5 intervention: definitions

6 A. The state board of education shall review allegations of school
7 district insolvency and gross mismanagement. The state board shall give the
8 school district an opportunity to respond to these allegations at a public
9 meeting. If the state board determines that the school district is insolvent
10 or has grossly mismanaged its finances, the state board shall appoint a
11 receiver for that school district.

12 B. The state board shall find a school district insolvent if it finds
13 one or more of the following:

14 1. The school district is unable to pay debts as they fall due or in
15 the usual course of business.

16 2. The salaries of any teachers or other employees have remained
17 unpaid for forty-five days.

18 3. The tuition due another school district or other state institution
19 remains unpaid on or after January 1 of the year following the school year it
20 was due and there is no dispute regarding the validity or amount of the
21 claim.

22 4. The school district has defaulted in payment of its bonds or
23 interest on bonds or in payment of rentals due any state or federal authority
24 or private business for a period of sixty calendar days and no action has
25 been initiated within that period of time to make payment.

26 5. The school district has contracted for any loan not authorized by
27 law.

28 ~~6. The school district has accumulated and has operated with a deficit~~
29 ~~equal to five per cent or more of the school district's revenue control limit~~
30 ~~for any fiscal year within the past two fiscal years.~~

31 ~~7.~~ 6. The school district's warrants have not been honored for
32 payment by the school district's servicing bank or by the county treasurer
33 and the warrants have remained unpaid for a period of more than sixty
34 calendar days.

35 C. THE STATE BOARD MAY FIND A SCHOOL DISTRICT INSOLVENT IF IT FINDS
36 THE SCHOOL DISTRICT HAS ACCUMULATED AND HAS OPERATED WITH A DEFICIT EQUAL TO
37 FIVE PER CENT OR MORE OF THE SCHOOL DISTRICT'S REVENUE CONTROL LIMIT FOR ANY
38 FISCAL YEAR WITHIN THE PAST TWO FISCAL YEARS.

39 ~~C.~~ D. No school district shall be deemed to be insolvent pursuant to
40 ~~subsection~~ SUBSECTIONS B OR C of this section if the circumstances are the
41 result of the failure of the state to make any payments of monies due the
42 school district at the time payment is due.

43 ~~D.~~ E. The state board of education shall have jurisdiction over all
44 petitions requesting that a school district be placed in receivership and a
45 receiver be appointed because of the school district's alleged insolvency or

1 gross mismanagement. The state board shall have the burden of demonstrating
2 by a preponderance of the evidence that the school district is insolvent or
3 is engaged in gross mismanagement.

4 ~~F.~~ F. If the state board of education finds that the school district
5 is insolvent or has engaged in gross mismanagement, the state board shall
6 place the school district in receivership and appoint a receiver recommended
7 by the state board. The state board shall develop and adopt a list of
8 qualified receivers to be appointed by the board.

9 ~~F.~~ G. On appointment, the receiver shall begin a full review and
10 investigation of the school district's financial affairs and submit to the
11 state board of education a detailed report listing the findings of that
12 investigation that shall include a financial improvement plan and budget that
13 details how the school district will eliminate any continued gross financial
14 mismanagement and achieve financial solvency. **THE STATE BOARD OF EDUCATION**
15 **SHALL ADOPT RULES THAT SPECIFY THE MANAGEMENT OF THE SCHOOL DISTRICT'S**
16 **FINANCIAL AFFAIRS BETWEEN THE TIME OF THE RECEIVER'S APPOINTMENT AND THE**
17 **IMPLEMENTATION OF THE IMPROVEMENT PLAN.** The plan shall include a proposed
18 timeline for achieving financial solvency. The receiver shall submit the
19 report within one hundred twenty days after the receiver's appointment. The
20 financial improvement plan approved by the state board of education may
21 authorize the receiver to do any of the following:

22 1. Override any decisions of the school district's governing board or
23 the school district superintendent, or both, concerning the management and
24 operation of the school district, and initiate and make decisions concerning
25 the management and operation of the school district.

26 2. Attend any and all meetings of the school district's governing
27 board and administrative staff.

28 3. Supervise the day-to-day activities of the school district's staff,
29 including reassigning the duties and responsibilities of personnel in a
30 manner that, in the determination of the receiver, best suits the needs of
31 the school district.

32 4. Place on extended leave, suspend or terminate for cause the school
33 district's superintendent or chief financial officer, or both. A person
34 terminated pursuant to this paragraph may appeal the receiver's decision to
35 the state board of education if an appeal is filed with the state board
36 within thirty days of receiving notice of the termination.

37 5. Authorize pupils to transfer from schools operated by the school
38 district to schools operated by another school district that is not currently
39 in receivership.

40 6. Appoint a chief educational officer who shall possess the powers
41 and duties of a school district superintendent. A chief educational officer
42 who is appointed pursuant to this paragraph shall hold a valid administrative
43 certificate.

44 7. Appoint a chief fiscal officer who shall possess the powers and
45 duties of the school district's chief school business official and any other

1 duties regarding budgeting, accounting and other financial matters that are
2 assigned to the school district by law.

3 8. Appoint a competent independent public accountant to audit the
4 accounts of the school district.

5 9. Reorganize the school district's financial accounts, management and
6 budgetary systems to improve financial responsibility and reduce financial
7 inefficiency within the district.

8 10. Establish school district fiscal guidelines and a system of
9 internal controls, including internal administrative controls and internal
10 accounting controls, with provisions for internal audits.

11 11. Cancel or renegotiate any contract, other than contracts of
12 certificated teachers who have been employed by the school district in the
13 capacity of a certificated teacher for more than one year immediately before
14 the date the receiver was appointed, to which the governing board or the
15 school district is a party if the cancellation or renegotiation of the
16 contract will produce needed economies in the operation of the district's
17 schools. The receiver may refuse to reemploy any certificated teacher who
18 has not been employed by the school district for more than the major portion
19 of three consecutive school years as provided in section 15-536.

20 ~~G.~~ H. The receiver's power, authority and duties shall be effective
21 on the date of the receiver's appointment by the state board of education.
22 The receiver shall perform the receiver's duties according to the
23 instructions of the state board of education order and according to law. The
24 receiver shall promptly report any violations of law, including a violation
25 of the uniform system of financial records, to the state board of education.

26 ~~H.~~ I. On review and approval of the state board of education, the
27 receiver shall take all necessary steps to implement the financial
28 improvement plan and budget utilizing those powers identified in the plan as
29 prescribed in subsection ~~F~~ G of this section.

30 ~~I.~~ J. The salary and benefits of the receiver and any officers or
31 employees appointed by the receiver shall be paid by the school
32 district. The state board of education shall determine the salary for the
33 receiver and any officers or employees appointed by the receiver based on
34 amounts recommended by the state board.

35 ~~J.~~ K. The state board of education shall remove the school district
36 from receivership and dismiss the receiver and dismiss any officer or
37 employee appointed by the receiver thirty days after all of the following
38 have occurred:

39 ~~1. The auditor general certifies that the school district has been~~
40 ~~financially solvent for one fiscal year.~~

41 ~~2.~~ 1. The auditor general certifies that the school district's
42 financial records are in compliance with the uniform system of financial
43 records and generally accepted accounting principles.

44 ~~3.~~ 2. The receiver certifies that the school district is no longer
45 engaged in gross mismanagement.

1 ~~4.~~ 3. The state board of education has determined that the school
2 district is able to pay its debts as those debts become due.

3 ~~K.~~ L. The receiver shall submit a quarterly progress report to the
4 state board of education. The first progress report is due ~~on the three~~
5 ~~month anniversary of~~ NINETY DAYS AFTER the receiver's appointment by the
6 state board.

7 ~~L.~~ M. The state board of education shall formally review the
8 receiver's progress every six months. If, based on the quarterly progress
9 reports, the state board determines that the receiver's progress is
10 insufficient, the state board may remove the current receiver and appoint
11 another receiver for the school district.

12 ~~M.~~ N. The state board of education may dismiss the receiver for cause
13 or on a majority vote of no confidence in the receiver of the state board.

14 ~~N.~~ O. The school district shall indemnify the receiver and any
15 officer or employee appointed by the receiver who is made or threatened to be
16 made a party to any litigation by reason of their status under this section
17 if the receiver, officer or employee acted in good faith and in a manner that
18 the receiver, officer or employee reasonably believed to be consistent with
19 the best interest of the school district and if the receiver, officer or
20 employee had no reasonable cause to believe that the conduct was unlawful.

21 ~~O.~~ P. During the period of time that the school district is in
22 receivership, no member, officer, employee or agent of the school district
23 may enter into any contract or incur any liability on behalf of the school
24 district for any purpose if the amount of the contract or liability exceeds
25 the receiver's authorized financial plan and budget for the school
26 district. The receiver may discipline, including, if warranted, imposing a
27 suspension from duty without pay, removal from office or termination, of any
28 school district employee or officer who violates this subsection.

29 ~~P.~~ Q. This section does not create a private cause of action against
30 the school district or its officers, directors, board members or employees.

31 ~~Q.~~ R. The assumption of control of the school district by the
32 receiver shall in no way interfere with the election or reelection of school
33 district governing board members.

34 ~~R.~~ S. This section shall not interfere with a school district's
35 ability to declare bankruptcy under federal law.

36 ~~S.~~ T. The state board of education shall continue to monitor and
37 offer technical assistance to a school district for two years after its
38 removal from receivership.

39 ~~T.~~ U. For the purposes of this section:

40 ~~1. "Delinquent debt" means debts or liability unpaid by the school~~
41 ~~district for a period of more than sixty days from the time of notice.~~

42 ~~2.~~ 1. "Gross mismanagement" means that the school district's officers
43 or employees committed or engaged in gross incompetence or systemic and
44 egregious mismanagement of the school district's finances or financial
45 records IN VIOLATION OF THE UNIFORM SYSTEM OF FINANCIAL RECORDS.

1 ~~3.~~ 2. "Notice" means written notice personally served or delivered by
2 certified mail, return receipt requested.
3 ~~4.~~ 3. "Receiver" means an individual appointed by the state board of
4 education from the persons recommended by the state board for the purpose of
5 managing a school district placed in receivership by the state board of
6 education.
7 ~~5.~~ 4. "Receivership" means the state or condition of being under the
8 control of the receiver appointed by the state board of education.
9 ~~6.~~ 5. "Superintendent" means the chief executive officer of the
10 school district.